

**DRAFT 2012 - 2103 EPA Chesapeake Bay Trading and Offsets Workplan
May 15, 2012**

EPA shares the concerns of stakeholders and observers regarding the need for nutrient credit trading and offset programs in the Chesapeake Bay watershed to be credible, effective and economical tools to meet water quality goals. For these reasons, EPA initiated a comprehensive assessment of Chesapeake Bay jurisdictions' trading and offset program to determine whether they met the criteria established in Appendix S of the TMDL. EPA has clearly communicated to the jurisdictions our expectation that the jurisdictions' Watershed Implementation Plans and associated two-year milestones include a commitment to develop and implement a plan of action to address all jurisdiction-specific areas of concern by the end of 2012 and a plan of action to address all common areas of concern by the end of 2013.

EPA did not intend that these assessments be an isolated activity, but to serve as an information baseline upon which future activities can be built. Based upon the assessments and the comments that we have received from stakeholders, EPA has developed a comprehensive work plan with four major components:

Addressing Assessment Findings

The Trading and Offset assessments identified a number of state-specific and common concerns that need to be addressed. The states will be drafting action plans to address these areas. It is critical that EPA review the action plans, evaluate the products generated by them, and ensure that adequate progress is achieved in making the necessary adjustments. Senior staff members have been assigned to each of the jurisdictions to help shepherd this process.

Oversight Program

A critical element to the success of a regional trading and offset program is having in place sufficient safeguards to ensure that the program conforms to NPDES regulations and the TMDL, and that credits that are generated are both credible and meet water quality objectives. To accomplish this, EPA is developing the elements of a comprehensive state oversight program. This program will ensure that the states' permit programs and compliance assurance programs are sufficiently robust to ensure that the goals of the trading and offset programs are successful and that new loads are appropriately offset. The oversight program will have as its foci: the state permitting programs, state compliance assurance programs, and credit generators. Oversight mechanisms will include state reporting of all trades and offsets and permits which are associated with these, individual NPDES permit reviews, review of state compliance monitoring strategies directed toward consumers

and generators of credits, targeted federal inspection and information requests of permittees and credit generators, and case-by-case review of state actions to ensure that timely and appropriate action is taken in the event that permittees are in violation of its nutrient permit limits. Elements of the oversight program, including permit reviews, EPA investigations of violators of nutrient limits, and case-by-case review of state actions are currently being implemented.

Program Development and Guidance

To help guide the jurisdictions in implementing their action plans and the strengthening of trading and offset programs, EPA plans to develop a number of Technical Memoranda (TM). These TM will also provide EPA a rubric for determining whether required program elements meet minimal requirements. The TM may include, but are not limited to, the following: Baseline Validation, Sector Growth and Offsets Demonstration, Ensuring Protection of Local Water Quality, Representative Sampling, Credit Calculation Methodology, Trading Uncertainty Ratios, Net Improvement Offsets, Verification Requirements, Interstate Trading Standards, and MS4 and Construction Offsite Mitigation. We are currently mapping out schedules and priorities in this regard, and this is likely to be an ongoing activity.

Outreach/Education/Integration

Outreach to the jurisdictions, regulated community, and stakeholders is an important element of the work plan to ensure that expectations are clearly established and that there is an ongoing forum to address concerns raised by interested parties. EPA will be working in coordination with the existing Trading and Offsets Workgroup of the Bay Partnership, sponsoring workshops and webinars, and having continued dialogue with stakeholders to accomplish this. An important element of this effort is working to coordinate and integrate the various trading and offset work plans being developed by stakeholders, Departments of Agriculture, and regulatory agencies. Toward this end, EPA will be hosting a planning retreat of principals that would address roles, responsibilities, and seek to find opportunity for synergy in the numerous ongoing efforts. As part of this effort, EPA will be sharing our work plan with stakeholders.

Internal, Deliberative, Do Not Distribute, Subject to Change

Objective	Activity	Task	Start	Finish*	Lead Office
Regulatory Oversight					
	Address Assessment Findings				
		Assign State Leads	2012	Q2 12	WPD/CBPO
		Technical Memorandum on Baseline Demonstration	2012	Q3 12	WPD/CBPO
		Technical Memorandum on Sector Demonstration	2012	Q3 12	WPD/CBPO
		Develop Expectations Regarding Common Recommendations	2012	Q3 12	WPD
		Management Plan Development/Tracking for jurisdictions	2012	Q4 12	WPD
		EPA Review of Baseline Demonstration Submissions	2012	Q4 12	WPD
	Oversight Program				
		Develop Oversight Reporting Requirements	2012	Q4 12	WPD
		Develop Permitting Oversight Program	2012	Q2 12	WPD
		Develop permit checklist (local water quality, etc.)	2012	Q3 12	WPD
		Inventory of State Trades and/or Permits	2012	Q3 12	WPD
		Develop Compliance Monitoring Oversight Program	2012	Q3 12	WPD
		Develop Inspection Protocols for Trading/Offsets	2012	Q4 12	WPD
		Develop Permitting Annual Report on Jurisdiction Trading and Offsets	2012	Q4 12	WPD
		Letter to Jurisdictions Establishing Reporting and Oversight Program	2012	Q4 12	WPD
Program Development and Guidance					
	Interstate Trading Program				
		Technical Memorandum on Interstate Trading	2013	Q4 13	CBPO
		Pennvest Pilot for Interstate Trading	2013	Q4 13	WPD
	Program Development				
		Technical Memorandum on Representative Sampling	2013	Q3 12	WPD
		Technical Memorandum on Credit Calculation Methodology	2012	Q4 12	CBPO

Technical Memorandum on Trading Ratio based upon Uncertainty	2012	Q4 12	CBPO
Technical Memorandum on MS4 and Construction Permits Trading and TMDL	2013	Q1 13	WPD
Technical Memorandum on Net Improvement Offset	2014	Q4 14	WPD
Technical Memorandum on Verification Measures for Trading and Offsets	2013	Q1 13	CBPO
USDA Multi-Benefit Trading and Environmental Markets Discussion	2012	ongoing	CBPO
Grants and Support			
Grants Guidance to Support Trading and Offset Plan	2012	Q4 12	CBPO
Outreach/Education/Integration			
Outreach and Education Plan			
Trading Conference Planning	2012	Q3 12	CBPO/Stakeholders
Workshops and Webinars	2012	ongoing	CBPO/Stakeholders
Stakeholder Meetings for Input and Priority Actions	2012	ongoing	CBPO/Stakeholders
Stakeholder Support/Sponsorship for Above Activities	2012	ongoing	CBPO/Stakeholders
Develop and Maintain Trading and Offset Website Oriented to CB	ongoing	ongoing	CBPO/Stakeholders
Communications/Compendium Development	ongoing	ongoing	CBPO
TOWG			
Define TOWG Roles and Responsibilities	2012	Q2 12	WPD/CBPO
Coordinate TOWG and EPA Work Plans	2012	Q2 12	CBPO
Coordination of TOWG	2012	ongoing	CBPO
Integration			
Coordination of EPA/TOWG/NGO/USDA Workplans	2012	Q2 12	CBPO/WPD
Retreat of Principals: Roles, Responsibilities, and Workplans	2012	Q2 12	CBPO/WPD
Data and Tracking			
BayTAS support for Trading and Offset Oversight	2012	ongoing	CBPO/WPD
Land Use Tracking to Determine Changes in Sectors	2013	ongoing	CBPO
Letter to Jurisdictions on Data and Tracking Requirements	2012	Q3 12	CBPO

*Dates refer to calendar years. Dates should be considered as target dates and may shift depending upon workload, newly identified priorities, and available resources.